

REMARKS

Claims 1-15, 17-22, 24-42, 44-48 and 50-60 were pending in the present application. Accordingly, claims 1-15, 17-22, 24-42, 44-48 and 50-60 are currently under consideration.

Rejections under 35 U.S.C. §102(b)

The Office has rejected claims 1, 2-6, 13, 18-21, 24, 27, 31, 34, 40, 45-48, 50, 51, and 53-60 as allegedly being anticipated by Cornelius et al. (U.S. Patent No. 5,338,295).

To anticipate a claim, the reference must teach every element of the claim, i.e., a claim is anticipated only if each and every element as set forth in the claim is found. MPEP § 2131.

Cornelius shows and describes a catheter section having strands of stainless steel ribbon interwoven to form a tubular braid which is then completely covered by polyimide material 54 which "encases tubular braid 52 on both the inner and outer surfaces of braid 52." (Cornelius, 4: 66-67 & Figs. 2-3.)

On the other hand, independent claims 1, 24, and 31 recite, in part, a "knit tubular member". The Office Action contends that "a weaved braid is the same as a knit." However, by the Examiner's own description, a weave is defined "to form by interlacing strands" and a knit is defined "to form by interlacing in a series of connected loops with needles." (Office Action, Paper No. 18, p. 2-3.) Interlacing strands cannot be the equivalent of interlacing in a series of connected loops because in a knit, individually formed loops are connected together (see Specification, p. 8, lines 8-9 & Fig. 4), whereas in a weave, no such loops exist. Therefore, a knit *cannot* be the same as a "clothing weave." Accordingly, Cornelius cannot, by law, anticipate claims 1, 24, and 31.

Dependent claims 2-6, 13, 18-21, and 54-57, which depend ultimately from claim 1; dependent claim 27, which depends from claim 24; and dependent claims 34, 40, 45-48, 50, 51, 53, 58-60, which depends ultimately from claim 31, are submitted to be patentable over Cornelius for at least the same reasons as claims 1, 24, and 31.

Accordingly, reconsideration and withdrawal of the rejection under §102(b) is respectfully requested.

Rejections under 35 U.S.C. §103(a)

A. The Office has rejected claims 3-5, 7-9, 14-15, 17, 22, 25-26, 32, 33, 35-37, 41, 42, 44, and 52 as allegedly being unpatentable over Cornelius et al., in view of Samson (U.S. Patent No. 5,702,373).

In support of the rejection, the Office Action (Paper No. 18) states the following at pps. 4-5:

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the device of Cornelius with the materials and dimensions of Samson to help prevent such features as kinking of the catheter tube.

To establish a *prima facie* case of obviousness, there are three criteria which must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Second, there must be a reasonable expectation of success. Finally the prior art reference must teach or suggest all the claim limitations. MPEP § 2143.

The independent claims 1, 24, and 31, are submitted to be patentable over Cornelius for at least the same reasons given above. Therefore, Samson ('373) necessarily fails to cure the defects of Cornelius, either alone or in combination with Samson ('373).

Therefore, dependent claims 3-5, 7-9, 14-15, 17, and 22, which depend ultimately from claim 1; dependent claims 25-26, which depend ultimately from claim 24; and dependent claims 32, 33, 35-37, 41, 42, 44, and 52, which depend ultimately from claim 31, are submitted to be patentable over the combination of Cornelius and Samson ('373) for at least the same reasons as claims 1, 24, and 31.

Accordingly, reconsideration and withdrawal of the rejection under §103(a) is respectfully requested.

B. The Office has also rejected claims 10-12, 28-30, and 38-39 as allegedly being unpatentable over Cornelius in view of Samson ('373), as applied above, and further in view of Samson et al. (U.S. Patent No. 5,549,109).

In support of the rejection, the Office Action (Paper No. 18) states the following at p. 5:

It would have been obvious to one having ordinary skill in the art to modify the modified catheter of Cornelius et al. and Samson ('373) to use a multi-filament wire as taught by Samson ('109) to improve kinking resistance. Samson discloses the use of stainless steel, platinum, and nitinol as the material for the multi-filament wire to improve kinking resistance.

The independent claims 1, 24, and 31, are submitted to be patentable over Cornelius and Samson ('373) for at least the same reasons given above. Therefore, Samson ('109) necessarily fails to cure the defects of Cornelius in view of Samson ('373), either alone or in combination.

Therefore, dependent claims 10-12, which depend ultimately from claim 1; dependent claims 28-30, which depend ultimately from claim 24; and dependent claims 38-39, which depend ultimately from claim 31, are submitted to be patentable over the combination of Cornelius in view of Samson ('373), and further in view of Samson ('109), for at least the same reasons as claims 1, 24, and 31.

Accordingly, reconsideration and withdrawal of the rejection under §103(a) is respectfully requested.

CONCLUSION

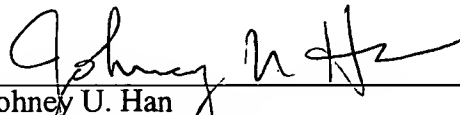
Applicant has, by way of the amendments and remarks presented herein, made a sincere effort to overcome rejections and address all issues that were raised in the outstanding Office Action. Accordingly, reconsideration and allowance of the pending claims are respectfully requested. If a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 290252021800. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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